

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF ISSAQUAH

RECEIVED  
JUL 23 2008  
CITY OF ISSAQUAH

In the Matter of the Application of	)	No. PLN06-00089
	)	
Barbara Hawley	)	
	)	
<u>For Approval of a Preliminary Plat</u>	)	FINDINGS, CONCLUSIONS, AND DECISION

**SUMMARY OF DECISION**

The request for a preliminary plat to subdivide 4.77 acres of land into 20 single-family residential lots is **APPROVED**, subject to conditions.

**SUMMARY OF RECORD**

Request:

Barbara Hawley requests a preliminary plat to subdivide 4.77 acres of land into 20 single-family residential lots. The property is located at 22923 SE 48<sup>th</sup> Street in Issaquah, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on July 10, 2008.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Mark Pywell, City Senior Planner  
Barbara Hawley, Applicant  
Emmet Pritchard, Raedeke Associates, for Applicant  
Bonita McPherrin, P.E., City of Issaquah  
Jim McBride, for McBride Properties  
Charles Herrick  
Robert Stevens

Exhibits:

The following exhibits were admitted into the record at the open record hearing:

1. File and application, Hawk Estates Preliminary Plat PLN06-00089, received July 21, 2006
2. Affidavit of Ownership, received July 21, 2006
3. Affidavit of Agent Authority, received August 22, 2007
4. Project Description, received July 21, 2006
5. Vicinity Map
6. Notice of Application, dated August 7, 2006
7. Certificate of Transportation Concurrency CON05-00074

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8. Certificate of Water Availability, received July 21, 2006
9. Certificate of Sewer Availability, received July 21, 2006
10. Environmental Checklist, received, received July 21, 2006
11. SEPA determination, dated July 25, 2007
12. Affidavit of Publication, dated April 7, 2008
13. SEPA comments received from City of Sammamish, received April 7, 2008
14. Notice of Appeal from City of Sammamish, received May 7, 2008
15. E-mail withdrawing the appeal from City of Sammamish, received June 19, 2008
16. E-mail received from applicant Barbara Hawley, received June 19, 2008
17. Wetland Assessment, prepared by Raedeke Associates, Inc., dated June 26, 2007
18. Hawk Estates – Wildlife Reconnaissance, received March 19, 2008
19. Preliminary Drainage Report for Hawk Estates dated May 8, 2008
20. Geotechnical Engineering Study, received July 21, 2006
21. Hawk Estates Preliminary Plat Traffic Assessment, received February 21, 2008
22. Tree Inventory Map, received February 13, 2008
23. Tree Retention Plan, received February 20, 2008
24. Preliminary Plat, received July 20, 2007
25. Preliminary Utility Plan, received August 23, 2007
26. Community Conference Minutes of May 3, 2006
27. Memorandum of Watercourse Review, dated April 24, 2008
28. Review of Critical Area Studies for Hawk Estates prepared by C. Gary Schultz, dated April 12, 2008
29. Letter from Bob Harrison received via e-mail, dated May 1, 2006
30. Letter from John Mellen, regarding Hawk Estates, dated April 28, 2006
31. Letter from Jason Dennett, regarding Hawk Estates, dated July 17, 2006
32. Letter from John Mellen, regarding Hawk Estates, dated February 7, 2008
33. Letter from Robert Stephens, regarding Hawk Estates, dated March 3, 2008
34. Letter from John Mellen, regarding Hawk Estates, dated March 10, 2008
35. Letter from Robert W. Stephens, regarding Hawk Estates, dated March 17, 2008
36. Letter from Jim McBride, regarding Hawk Estates, dated June 23, 2008
37. Staff Report for July 10, 2008 hearing, with July 3, 2008 addendum
38. Public Notice Documents
  - i. Affidavit of Service of Mailing, dated June 20, 2008
  - ii. Letter from Mark Pywell, City of Issaquah, to Barbara Hawley, dated June 19, 2008
  - iii. Public Hearing Notice, Hawk Estates Preliminary Plat, dated June 20, 2008, with vicinity map
39. Email message from *The Issaquah Press* to Doretta Levy, City of Issaquah, dated June 20, 2008
40. Map depicting relative location of High Grove, Breidenbach, Highland Terraces, Issaquah 22, Hawk Estates, Jazz Run, Barker, and McBride proposed plats, undated
41. Conceptual Utility Plan, dated July 2, 2008
42. Email message from Stewart Reinbold, Washington Department of Fish & Wildlife, to Mark Pywell, City of Issaquah, dated July 9, 2008
43. Public Comment

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- i. Letter from John & Tarrah Baker to the City of Issaquah Planning Department, dated July 1, 2008
- ii. Letter from Jim McBride, McBride Properties, to the City of Issaquah, dated June 23, 2008

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and evidence admitted at the open record hearing:

## FINDINGS

### *Request, Application, and Notice*

1. Barbara E. Hawley (Applicant) requests a preliminary plat to subdivide 4.77 acres of land into 20 single-family residential lots. The property subject to the request is located at 22923 SE 48<sup>th</sup> Street, on the south side of SE 48<sup>th</sup> Street between 228<sup>th</sup> Avenue SE and 229<sup>th</sup> Place SE, in Issaquah, Washington.<sup>1</sup> *Exhibit 1; Exhibit 24.*
2. City of Issaquah (City) staff met with the Applicant for a Pre-Application Conference on February 13, 2006. The City hosted a Community Conference Meeting on the preliminary plat request on May 3, 2006. The Applicant filed the preliminary plat application (PLN06-00089) with the City on July 21, 2006. City staff determined the application was complete on August 3, 2006. *Exhibit 1; Exhibit 6; Exhibit 26; Exhibit 37, Staff Report, page 2.*
3. On August 7, 2006, City staff mailed notice of the preliminary plat application to all parties of record and to owners of property within 300 feet of the proposed plat.<sup>2</sup> On June 20, 2008, City staff published notice of the open record hearing associated with the application in *The Issaquah Press*, and mailed notice of the hearing to parties of record and owners of property within 300 feet of the proposed plat. The Applicant also posted notice of the associated hearing on the subject property. *Exhibit 37, Staff Report, page 2 and 17; Exhibit 38.*

### *SEPA Review*

4. The City acted as lead agency for review of environmental impacts of the proposed preliminary plat, as required by the State Environmental Policy Act (SEPA). The City determined that, with conditions, the proposal would not have a probable significant adverse impact on the environment and issued a Mitigated Determination of

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<sup>1</sup> The property is identified by tax parcel number 222406-9117. A legal description is provided on the preliminary plat map. *Exhibit 9; Exhibit 24.*

<sup>2</sup> Issaquah Municipal Code (IMC) 18.04.180.B requires the City to provide notice of a Community Conference Meeting and provide notice of a preliminary plat application to parties of record and adjacent property owners. *IMC 18.04.180.B.1; IMC 18.04.180.B.2.* IMC 18.04.180.B.3 requires the City to provide notice of the public hearing associated with the preliminary plat application to parties of record, the local newspaper, and adjacent property owners. IMC 18.04.180.B.3 also requires posting notice of the public hearing on the subject property. *IMC 18.04.180.B.3.*

Nonsignificance (MDNS) on April 4, 2008. The MDNS includes ten conditions intended to mitigate impacts to the on-site wetland by implementing a wetland mitigation plan and wetland buffer enhancement plan; to maintain wetland hydrology by designing the stormwater drainage system appropriately; to ensure the Applicant applies for Hydraulic Project Approval from the Washington Department of Fish & Wildlife as necessary; to ensure the stormwater drainage system on the neighboring Issaquah 22 plat is sized appropriately to accommodate stormwater from the proposed plat; to mitigate impacts on trees by developing a tree retention plan; and to mitigate impacts on public services by making a voluntary contribution to the City for General Government Buildings and for Police Services. *Exhibit 11.*

5. The City of Sammamish filed an appeal of the City's MDNS threshold determination on May 6, 2008. The City of Sammamish claimed the City of Issaquah Responsible Official failed to consider and mitigate cumulative traffic impacts of the proposed development plus all potential area development on SE 48<sup>th</sup> Street, Issaquah-Pine Lake Road, and the Issaquah-Pine Lake Road/SE 48<sup>th</sup> Street intersection, all of which are located within the City of Sammamish. The City of Sammamish requested mitigation measures to ensure that the intersection encompassing the PM eastbound left turn movement from SE 48<sup>th</sup> Street onto northbound Issaquah-Pine Lake Road operates at Level of Service (LOS) "D" or better, and a contribution of \$1,370 per single family lot for a proportional share contribution toward completion of the City of Sammamish's Issaquah-Pine Lake Road capital improvement project, part of the City of Sammamish's long range Transportation Capital Improvement Program. *Exhibit 14.*
6. The City of Sammamish Public Works Director, John Cunningham, notified the City of Issaquah that the City of Sammamish would be willing to withdraw its appeal of the MDNS threshold determination if Hearing Examiner approval of the preliminary plat is conditioned on the following condition of approval:

In accordance with the agreement reached between the applicant for Hawk Estates subdivision and the City of Sammamish the applicant shall place a note on the face of the final plat stating that a recorded agreement was reached between the City of Sammamish and the property owner requiring the payment of a City of Sammamish transportation impact fee of \$1,370 per residential lot at the time of the issuance of a building permit for each lot.

In addition, the City of Sammamish requested that City of Issaquah staff include the condition as a proposed condition of approval within the City staff report, and that the Applicant agree in writing that she concurs with the staff report and with the proposed condition of approval. The Applicant sent an email message to John Cunningham, City of Sammamish, and to Mark Pywell, City of Issaquah, stating:

I have read the proposed agreement below, and concur that the documents be included in the Preliminary Plat approval with the listed conditions to the Plat of Hawk Estates requiring the owner of the Plat Hawk Estates to pay each transportation impact fee to the

City of Sammamish in the amount of \$1370.00, upon issuance of the building lot applications.

Mr. Pywell testified for the City of Issaquah that that the City included the requested language as proposed condition No. 15 within the City staff report, fulfilling the condition stated by the City of Sammamish for the City to withdraw its appeal of the MDNS threshold determination. *Exhibit 15.*

*Access, Traffic, and Circulation*

7. The Applicant would provide access to the proposed plat lots with an access road running north-south through the plat connecting to SE 48<sup>th</sup> Street on the north and to a road within the proposed Issaquah 22 plat to the south. The Applicant would construct sidewalks along one side of the proposed road, connecting to the existing sidewalk along SE 48<sup>th</sup> Street and the sidewalk to be constructed within the Issaquah 22 development. According to the City staff report, the Applicant would need to provide a half-width road dedication along the southern boundary of the proposed plat to provide for connectivity to the Issaquah 22 development, requiring a small change in proposed Lot 11 and possibly proposed Lot 10. The City staff report states that the Issaquah 22 development would also provide a half-width street immediately adjacent, to establish connectivity with SE 51<sup>st</sup> Street to the west. *Exhibit 41; Exhibit 37, Staff Report, pages 6 – 7.*
8. Robert Harrison, an owner of property neighboring the proposed plat, submitted a comment letter to the City expressing his concerns about the proposed plat, dated May 1, 2006. Mr. Harrison wrote that he opposed development of the Issaquah 22 plat with its only exit onto SE 48<sup>th</sup> Street, when adding the traffic generated by the proposed plat and other area developments. He commented that the Issaquah 22 plat should also have additional access to the east through the Aspen Meadows development and to the south through the Overdale Park development. Mr. Harrison wrote that he opposed constructing the proposed plat road through the existing wetland, he opposed allowing any buffer averaging, and he encouraged wetland buffer restoration. Mr. Harrison requested that dust and noise from construction be limited, that a vegetation buffer be planted along SE 48<sup>th</sup> Street, and that any outdoor lighting within the proposed plat be shielded to prevent spillover to adjacent homes and wetlands. *Exhibit 29.*
9. Steve Whan, a representative of Friends of Aspen Meadows (FOAM), spoke at a May 3, 2006 City Development Commission meeting in favor of development of the proposed plat and adjacent Jazz Run proposed plat. He stated he favored providing access through the proposed plat to SE 48<sup>th</sup> Street for the Issaquah 22 proposed plat. He stated that access to the proposed plat and to the Issaquah 22 plat should be considered together as a system. *Exhibit 26.*
10. The City staff report includes City staff responses to traffic and circulation comments. City Staff stated that the proposed plat would be constructed at the same time or after the initial construction of the Issaquah 22 development. City staff noted that a temporary turn around would be constructed on the proposed plat if it were to be constructed prior to

the Issaquah 22 development. Charles Herrick testified at the open record hearing that a settlement has been reached of a lawsuit that had delayed development of the Issaquah 22 subdivision, and it is likely that the Issaquah 22 subdivision will be developed. City staff stated that the proposed plat would provide one of three planned entrances to the Issaquah 22 development. City staff noted that City code limits construction noise, construction time periods, and outdoor street lighting, and that the City would require the Applicant to construct a fence and plant trees along SE 48<sup>th</sup> Street. *Exhibit 37, Staff Report, pages 15 – 17; Testimony of Mr. Herrick.*

11. The SE 48<sup>th</sup> Street right-of-way is located within the City of Sammamish, which requires that the Applicant make half-street improvements to SE 48<sup>th</sup> Street, including curb, gutter, sidewalk, five-foot wide landscape strip, and pavement, in constructing the proposed plat. The City staff report states that the City Public Works Department and City of Sammamish reviewed the proposed SE 48<sup>th</sup> Street connection to the proposed plat, and determined that the intersection would have safe traffic sight lines. A stop sign would be placed at the intersection of the proposed plat road and SE 48<sup>th</sup> Street to regulate traffic. *Exhibit 37, Staff Report, page 7.*
12. Development of the proposed plat would generate an additional 180 new weekday vehicle trips, including 14 new A.M. peak hour trips and 19 new P.M. peak hour trips. The Applicant's traffic engineer, Transportation Engineering NorthWest, prepared a traffic analysis of traffic levels of service (LOS)<sup>3</sup> and queuing at the SE 48<sup>th</sup> Street – Issaquah-Pine Lake Road intersection just east of the proposed plat, analyzing 2007 existing conditions, 2007 existing with-project conditions, 2010 without-project conditions,<sup>4</sup> and 2010 with-project conditions. The traffic analysis concluded that for 2007 existing conditions, all lanes would operate at a LOS D or higher, except the eastbound right lane during the A.M. peak hour and eastbound left lane during the P.M. hour would operate at LOS F, with more than 50 seconds of delay. With the project, delay at the intersection would increase only slightly under 2007 conditions. *Exhibit 20; Exhibit 37, Staff Report, page 13.*
13. A condition of plat approval for the Issaquah 22 development would require mitigation at the SE 48<sup>th</sup> Street – Issaquah-Pine Lake Road intersection consisting of an eastbound to southbound right-turn merge lane, allowing right turns to travel south on Issaquah-Pine Lake Road without stopping and eventually taper back into the through lane south of SE

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<sup>3</sup> The Applicant's traffic engineer defined Level of Service (LOS), or average control delay, in seconds per vehicle based on the methodology of the *Highway Capacity Manual, Special Report 209* by the Transportation Research Board (2000 update). *Exhibit 21.*

<sup>4</sup> The Applicant's traffic engineer estimated 2010 baseline traffic conditions according to 2007 traffic conditions increased to account for traffic that would be generated by other plats under development and to account for an annual background traffic growth rate. The traffic engineer considered the following developments: Highland Terrace, McBride property, Jazz Run, Barker, High Grove, Breidenbach short plat, Issaquah 22, Klineburger (located in the City of Sammamish), and a 20-unit townhouse project (located in the City of Sammamish). *Exhibit 21.*

48<sup>th</sup> Street. The Applicant's traffic engineer performed 2010 without-project and with-project traffic analysis assuming the mitigation would be in place by 2010. The traffic engineer determined that all lanes at the intersection would operate at LOS C or higher, except the eastbound left turn lanes in the A.M. and P.M. peak hours would operate at LOS F with more than 50 seconds of delay. With the project, delay at the intersection would increase only slightly under 2010 conditions. *Exhibit 20.*

14. The City issued a Certificate of Transportation Concurrency for the proposed plat, File No. CON05-00071, dated January 26, 2006, based on a determination that the proposed plat would generate 17.64 new P.M. peak hour trips. The Certificate confirmed that the City's Transportation Concurrency requirement had been satisfied and that roadway capacity is reserved for the specific period of time and specific development described within the Certificate. The Certificate expires 180 days from the date of issuance, unless the City accepted a complete application for development permits or granted a time extension. The City staff report noted the issuance of the Certificate, but not the expiration date. *Exhibit 7; Exhibit 37, Staff Report, page 7.*

*Comprehensive Plan, Surrounding Property, and Zoning*

15. The City Comprehensive Plan designates the subject property as Low Density Residential. The purpose and intent of the designation is to provide a variety of housing types and densities within a full range of urban services. Housing is the primary land use within the designation, with appropriate protection for critical areas. *City of Issaquah Comprehensive Plan Land Use Designation Map (last revised March 31, 2008), Comprehensive Plan Land Use Element, Table L-3, page L-7; Exhibit 37, Staff Report, page 2.*
16. The subject property is surrounded on all sides by single-family residential property. According to the City staff report, the proposed preliminary plat lots are consistent in size and characteristics with other area subdivisions. *Exhibit 37, Staff Report, pages 1 and 9.*
17. The subject property is located within the City's Single Family – Small Lot (SF-SL) zoning district, which is compatible with the property's Low Density Residential Comprehensive Plan designation. The district permits development of single-family detached dwellings at a maximum development density of 7.26 dwelling units per acre. *Issaquah Municipal Code (IMC) 18.06.100.D; IMC 18.06.130.1, Table of Permitted Land Uses.* Development of the proposed plat would result in a density of 4.19 dwelling units per acre.<sup>5</sup> *Exhibit 1; Exhibit 24.*
18. Development standards for the SF-SL zone include a minimum lot size of 6,000 square feet; minimum ten-foot wide front setbacks; minimum six-foot wide side setbacks; minimum 20-foot wide rear yard setbacks; and a maximum impervious surface ratio of 50 percent. *IMC 18.07.360, District Standards Table 1.*

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<sup>5</sup> The density calculation is 20 dwelling units divided by 4.77 acres equals 4.19 dwelling units per acre.

19. City code provides for the transfer of density credits from a critical area within a site to the developable area of the site. *IMC 18.10.450.A; IMC 18.10.450.B*. The subject property contains 0.41 acres of critical areas, or approximately nine percent of the property. Pursuant to City code, this translates to a 100 percent density credit transferable to the developable area of the property. *IMC 18.10.450.B.2*. With the critical area density credit, the property's permitted development density would be 35 dwelling units, 15 more lots than proposed.<sup>6</sup> The City staff report states that the density calculation for critical areas allows for the creation of lots smaller than the minimum requirement for the zone in which the subject property is located. The proposed plat includes lots that would be smaller than 6,000 square feet in size. Lots would range in size from 5,812 square feet to 8,798 square feet. Mark Pywell, Senior City Planner, testified that the size of the proposed lots complies with City Code. *IMC 18.10.450.B.1; Exhibit 24; Exhibit 37, Staff Report, pages 4 – 6; Testimony of Mr. Pywell*.

*Wetland and Buffer*

20. A wetland and associated wetland buffer occupies the southeast corner of the proposed plat and extends off-site to the south and east. The entire wetland, including off-site area, is four acres in size; approximately 4,400 square feet of the wetland is located within the subject property. The off-site portion of the wetland consists of fallow pasture areas. The on-site portion of the wetland consists of forest vegetation dominated by 30- to 50-year old trees. *Exhibit 17*.
21. Raedeke Associates determined that the wetland should be classified as a Class 2 wetland under 1998 Issaquah City Code, which requires a 50-foot wide buffer and a 15-foot wide building setback. City staff concurred that a 50-foot wide buffer is consistent with the City's critical area regulations for Class 2 wetlands in effect at the time of the preliminary plat application.<sup>7</sup> *Exhibit 17; Exhibit 24; Exhibit 37, Staff Report, page 11*.

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<sup>6</sup> According to *IMC 18.10.450.B.1*, the maximum number of dwelling units (DU) for a lot or parcel which contains critical areas and associated critical area buffers that limit development shall be equal to the number of acres in critical area and critical area buffer that limit development, times the number of dwelling units allowed per acre, times the percentage of density credit, plus the number of dwelling units allowed on the remainder of the site; or: (Max. DU) = (Acres in Critical Area and Critical Area Buffer) (DU/Acre) (Density Credit) + (DU allowed on remaining acreage of site). Thus, the maximum number of dwelling units would be the critical areas (0.41 acres) x maximum density (7.26 dwelling units per acre) x 100 %, resulting in 3 dwelling units, when rounded, plus 32 dwelling units allowed on the remainder of the site (site acreage (4.77 acres) – critical areas (0.41 acres) x 7.26 dwelling units/acre), when rounded. The 32 dwelling units otherwise allowed plus the 3 dwelling unit density transfer credit equals 35 dwelling units. *IMC 18.10.450.B.1; Exhibit 24; Exhibit 37, Staff Report, pages 4 – 6*.

<sup>7</sup> *IMC 18.10.640, Table 18.10.640.C Wetland Buffer Standards*, was last amended by City Ordinance No. 2455, effective on and after August 21, 2006. The City determined the preliminary plat application was complete on August 3, 2006. *Exhibit 6*.



22. According to Raedeke Associates, Inc., the Applicant's wetland consultant, the portion of the wetland located on the subject property receives water from direct precipitation, surface water runoff from adjoining uplands, and groundwater discharge from adjacent slopes to the north. In addition, the wetland receives flow from stormwater facilities for the Aspen Meadows development to the east of the subject property. Raedeke Associates found that the on-site wetland drains through two outlets located along the west edge of the proposed plat: through an approximately 500-foot long, man-made, buried pipe on the subject property connecting to several sump pits located off the subject property; and through a natural outlet approximately 200 feet south of the subject property. Raedeke Associates determined that the pipe on the subject property conveys water westward through the subject property to discharge into a three-foot deep ditch within a shallow swale inside the west property boundary, and that water flows from the ditch to a seasonal, unnamed stream located on the property adjacent to the west. The unnamed stream flows 500 feet west, then south to join a Park Hill Creek tributary, a non-fish bearing stream. *Exhibit 17.*
23. C. Gary Schulz, the Applicant's wetland/forest ecologist, reviewed Raedeke Associates' findings and found them "complete and thorough with regards to wetlands and streams." Cedarock Consultants, Inc., the Applicant's watercourse review consultant, conducted an April 18, 2008 site visit to the south boundary of the subject property. Cedarock determined that the wetland located in the south portion of the subject property naturally drains to the southwest down a topographically low area off-site to the south before dropping into a ravine and continuing downslope to the west. Cedarock confirmed that water collecting in sumps dug into the wetland is piped to the west through a pipe, and released in the ditch and swale that connects downslope to Park Hill Creek. Cedarock determined the pipe discharge point is located on the subject property approximately 50 feet from the western property boundary, near the southwest corner of the subject property. *Exhibit 27; Exhibit 28.*
24. Jim McBride, a resident of SE 48<sup>th</sup> Street in Issaquah, testified regarding his concern for drainage of stormwater runoff from properties adjacent to the subject property. Mr. McBride testified that the concrete pipe on the subject property has historically served as drainage for surrounding properties since approximately 1920. The concrete pipe is depicted adjacent to the southern boundary of the subject property on a conceptual utility plan submitted by the Applicant dated July 2, 2008. *Exhibit 41; Testimony of Mr. McBride.*
25. Public comment letters submitted to the City by Mr. McBride and by John and Tarrah Baker, owners of property within the proposed Issaquah 22 plat, allege that the existing drainage pipe in the southern portion of the subject property was plugged by the Applicant at the subject property boundary in 2007, resulting in the presence of standing water year-round on the McBride and Baker properties in areas where water had not previously pooled year-round. The Bakers' letter stated that pipe blockage prevents a swale on their property from drying up, when the swale had previously dried up by the

spring of each year. The letters state that prior to the plug in the drainage pipe, the pipe provided drainage of stormwater from the McBride, Baker and surrounding properties, with stormwater flowing west through the pipe, over the subject property. According to a vicinity map submitted by the City, the proposed Jazz Run plat lies adjacent to the east of the subject property, and the McBride properties lie adjacent to the east of the proposed Jazz Run plat. The proposed Issaquah 22 plat lies adjacent to the south. Mr. McBride and the Bakers requested a condition of plat approval that the Applicant unplug the historical drainage system upon the subject property; that the Applicant clean out the swale on the Baker property; and that the City recognize flags set by the Cam West biologist on the McBride property prior to the blockage of the drainage ditch. *Exhibit 40; Exhibit 43.*

26. Applicant Barbara Hawley testified that she and the Bakers stopped maintaining the pipe and drainage ditch at pipe outlet on the subject property.<sup>8</sup> Ms. Hawley testified that the pipe is approximately 80 – 90 years old and collapsing. Ms. Hawley testified that she has not removed any pipe, and has not acted in a manner that expanded the area of the existing wetland. *Testimony of Ms. Hawley.*
27. Cedarock Consultants, Inc. determined the pipe located on the subject property was permanently plugged as early as the summer of 2006. Cedarock determined that plugging the pipe stopped out of basin water transfer and restored natural basin hydrology downstream of the collection sumps. Cedarock concluded that the pipe was installed in an area where no natural surface flow existed, and the plugging of the pipe eliminated virtually all flow, restoring the natural flow pathway in the area. *Exhibit 27.*

#### *Drainage and Stormwater Management*

28. Bonita McPherren, City Engineer, testified that she observed the existing pipe on the subject property and found it was collapsing and only partially functioning as a drainage feature. Ms. McPherren testified that an existing ravine currently draining stormwater runoff from the subject property and surrounding area is eroding rapidly, so the City would redirect stormwater runoff to new detention vaults and a new pipe connected to the City storm sewer serving developments in the area of the subject property. The City staff report states that the City is developing a regional stormwater system for the area under a separate permit, which would ensure that water flows to the wetland are maintained and that excess flows do not cause erosion within the stream corridor. The regional

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<sup>8</sup> An email message from Stewart Reinbold, Assistant Regional Habitat Program Manager, Washington Department of Fish and Wildlife (WDFW), states that WDFW “considers [the man-made drainage system on the subject property] as a channelized stream and a Hydraulic Project Approval (HPA) is required before any future work can occur.” *Exhibit 42.* Cedarock Consultants, Inc. noted that both the US Army Corps of Engineers and the WDFW have jurisdiction below the ordinary high water mark of manmade watercourses that pass flow derived from natural sources, or that contain wetland habitat. *Exhibit 27.* Mr. Pywell testified for the City that the email message does not constitute an official response from WDFW, but stated his agreement that an HPA is likely required for any future work on the subject property concerning the existing drainage system. *Testimony of Mr. Pywell.*

stormwater system would include a tightlined system to carry excess water flows downhill to where flows can be safely released into the natural drainage system. *Exhibit 37, Staff Report, page 16; Testimony of Ms. McPherren.*

29. Mr. McBride testified that the timeframe within which the City would move forward on developing a regional stormwater management system is unknown; thus, he recommended a condition of plat approval that plat approval be contingent on development of a regional stormwater management system. Charles Herrick testified that the lawsuit impeding development of the proposed Issaquah 22 plat has been settled, so the proposed plat would be available to participate in a regional stormwater management system. *Testimony of Mr. McBride; Testimony of Mr. Herrick.*
30. The public comment letter submitted by the Bakers contains a conceptual drainage plan of proposed SE 48<sup>th</sup> Street drainage basin features, developed by the City. The plan depicts an 18-inch diameter HDPE tightline sewer pipe extending from the west edge of the proposed High Grove plat, located southeast of the subject property, extending east and north through the proposed High Grove, Issaquah 22, and Hawk Estates plats, terminating at the edge of the proposed Jazz Run and McBride plats. The July 2, 2008 conceptual utility plan submitted by the Applicant depicts an "outlet to future City diversion pipe" connected to plat storm drains at the south boundary of the proposed plat. As depicted on the conceptual utility plan, the outlet would be located adjacent to the south of proposed Tract D, a detention and water quality tract. *Exhibit 41; Exhibit 43.*
31. An addendum to the City staff report, dated July 3, 2008, states that the initial preliminary plat application did not include a proposal for an on-site stormwater control facility, as at that time the Applicant planned to control stormwater runoff generated by the proposed development by utilizing the stormwater facility planned for the proposed Issaquah 22 development to the south of the subject property. The addendum states that the conceptual utility plan dated July 2, 2008, depicts a new, on-site stormwater wet/detention vault where the Applicant had earlier planned wetland buffer averaging. The earlier proposal for wetland buffer averaging would have mitigated impacts to the wetland buffer resulting from a reduction in wetland buffer size proposed by the Applicant.<sup>9</sup> In the Addendum, the City determined that the Applicant would need to revise the plat to meet City code criteria for wetland buffer averaging. Mr. Pywell testified that a detention pond within the proposed plat may not be necessary if the

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<sup>9</sup> The Applicant proposed a reduction in wetland buffer width from 50-feet wide to 30-feet wide along the north side of the on-site wetland buffer. The reduction would total 1,100 square feet. As proposed on a conceptual utility plan submitted to the City, dated July 2, 2008, the Applicant would place an 8' x 36' x 108' wet/detention vault within the west portion of the wetland buffer, adjacent to a proposed access road running north-south through the proposed subdivision. The proposed wet/detention vault would be placed within Tract D, Detention Water Quality. The wet/detention vault would be designed using 1998 King County Level 2 Flow Control and Sensitive Lake Protection Standards, and a Stormfilter Vault. The remainder of the wetland and wetland buffer would be placed within Tract C, Sensitive Area Tract, measuring 28,833 square feet. *Exhibit 37, Staff Report, page 11; Exhibit 41.*

proposed Issaquah 22 plat, adjacent to the south of the proposed plat, is constructed to include a stormwater detention vault. *Exhibit 37, Staff Report Addendum; Testimony of Mr. Pywell.*

#### *Existing Well*

32. An existing well is depicted on the conceptual utility plan submitted for the proposed plat, dated July 2, 2008. The well is located in the northwest portion of the subject property, northwest of an existing dwelling on the property. The July 2, 2008 conceptual utility plan and the July 2006 preliminary plat site plan map submitted by the Applicant depict a building pad within proposed Lot 3 located directly over the existing well. *Exhibit 24; Exhibit 41.*
33. Robert Stephens, a resident of property next door to the Applicant's property at 22819 SE 48<sup>th</sup> Street, testified to claim rights to the well for irrigation uses and to feed a spa and fountains on his property. According to a July 17, 2006 letter from Carlson & Dennett, P.S., Mr. Stephens's attorneys, Robert and Ann Stephens (Stephens) have a right to withdraw water from the well located on the subject property pursuant to an Easement and Water Use Agreement dated February 27, 1984 (King County Recording Nos. 8402270618 and 8402270621). The letter also states that a covenant was concurrently executed (King County Recording No. 8402270619) to prevent land use within 100 feet of the well that might contaminate water supply. A March 3, 2008 letter from Mr. Stephens to the City Planning Department states that the Stephens have the right to continued use of the well according to two King County Superior Court decisions, Case Nos. 05-2-13746-1SEA<sup>10</sup> (2005 Order) and 06-2-09836-6SEA (2006 Order and Judgment).<sup>11</sup> *Exhibit 31; Exhibit 33; Exhibit 41; Testimony of Mr. Stephens.*

<sup>10</sup> An October 7, 2005 King County Superior Court Order Granting Motion for Summary Judgment (Order) upheld the right of the Stephens to use water as permitted by a February 24, 1984 agreement, King County Recording No. 8402270621, and by a February 27, 1984 easement, King County Recording No. 8402270618. *Exhibit 33.*

<sup>11</sup> The Order and Judgment on Cross-Motions for Summary Judgment (Order and Judgment) in Case No. 06-209836-6SEA upheld the right of the Stephens to obtain water from the well for any domestic uses other than human consumption or other uses requiring potable water. The Order and Judgment also determined that the Applicant need not supply the Stephens with water from the present well in the present location to honor the Stephens right, but may supply the Stephens with well water from a comparable replacement well on her property, relocated to a new location on her property and constructed at Applicant expense. If relocated, the Order and Judgment states that the location of any comparable replacement well shall be reasonably accessible for installation and maintenance, shall be at least 50 feet from the Stephens property, and shall be at least 100 feet from the current location of the septic system, drainfield, and reserve drainfield for the septic system on the Stephens property. The Order and Judgment would allow the current well in its current location to be decommissioned and current easements allowing access for water use to terminate, including easements recorded under King County AFN 7908220130, 8402270618, and 8605270722, if the replacement well is constructed, the well is connected to the current receiving point for well water on the Stephens property, and operation of the comparable replacement well commences. The Order and Judgment also lists the following setbacks for the current well or replacement well, as required by Washington Administrative Code (WAC) 173-160-171(3)(b): five feet from any existing building structure or building projection; 50 feet from a septic tank or related equipment; 50 feet from building sewers, public sewers, and other sewer distribution lines; 100 feet from the edge of a drain field, proposed or reserved drain field; 100 feet from all other sources or potential sources of contamination; and 1,000 feet from the boundary of a solid waste landfill. The

34. In a March 3, 2008 letter to the City, Mr. Stephens requested that the Applicant update the preliminary plat site plan map dated December 17, 2007, the Traffic Assessment Figure 2 from Preliminary Site Plan dated February 14, 2008, and relevant project descriptions and other drawings to state that the well storage tank shall be kept in operable condition; to note covenant King County AFN 7703230468 on the plat map, as providing a back-up or reserve well site; and to ensure proposed houses and lots depicted conform to all laws and regulations governing well sites. *Exhibit 33.*
35. John Mellen, Applicant Attorney, responded to Mr. Stephen's March 3, 2008 letter in a March 10, 2008 letter to the City. The letter interpreted the 2005 Order and 2006 Order and Judgment as not addressing the storage tank, and not requiring the Applicant to provide a back up or reserve well site. The letter also interpreted covenant King County AFN 7703230468 as applying to a non-existing, potable water well site and thus inapplicable to the 2005 Order and 2006 Order and Judgment. *Exhibit 34.*
36. Mr. Stephens responded to Mr. Mellen's March 10, 2008 letter in a March 17, 2008 letter to the City. Mr. Stephens's March 17, 2008 letter interpreted the 2005 Order as requiring that all components of the well system, including the storage tank, be maintained by the Applicant in operable condition. The letter also referenced the 2006 Order and Judgment's conclusion that current agreements between the parties and their successors remain in effect, except to the extent modified by the Order and Judgment. *Exhibit 35.*
37. Mr. Stephens testified to his concern that preliminary plat site plan maps submitted to the City by the Applicant do not depict the location of a back-up well under the proposed access road through the proposed plat. Mr. Stephens proposed a condition of plat approval that the plat map shall show on the face of the final plat the well, pump-house, storage tank, and water line as well as existing easements associated with use of these structures, and shall reference the covenants affecting use of these structures. Mr. Pywell responded that the City proposed a condition of plat approval that would address the Stephens rights as defined by the 2005 Order and 2006 Order and Judgment. *Testimony of Mr. Stephens; Testimony of Mr. Pywell.*

#### *Physical Condition of Property*

38. The Applicant's geotechnical engineer, Dennis Joule, P.E., determined that firm natural soil or compacted structural fill on the subject property would support the proposed single-family residences on conventional shallow foundations. The subject property does not contain any steep slopes, with slopes on the property averaging 10 percent grade.

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Order and Judgment concluded that except as modified by the Order and Judgment, current agreements between the parties and their successors regarding water rights remain in effect. A February 7, 2008 letter from Keller Rohrback L.L.P., the Applicant's attorneys, states the final judgment was appealed, but the appeal was dismissed by agreement of the parties on December 21, 2007. *Exhibit 32.*

The existing residence on the subject property would be removed prior to proposed plat development. *Exhibit 20.*

39. At the City's request, Raedeke Associates, Inc. prepared a wildlife habitat study of the subject property. Raedeke Associates observed no use of the subject property by pileated woodpeckers, a state candidate species under review for ESA-listing by the state, or use by any other listed, candidate, or priority species. Raedeke Associates determined the subject property has moderate wildlife habitat value. *Exhibit 18.*
40. The subject property contains significant trees. According to the Tree Retention Plan submitted by the Applicant, most trees would be removed in constructing the proposed plat, except for approximately 60 trees located along the northern boundary, west boundary, northeast corner, northwest corner, and southeast corner of the proposed plat. The City staff report states that the City shall approve the Applicant's tree retention plan prior to issuing grading or construction permits for the proposed plat. *Exhibit 22; Exhibit 23; Exhibit 37, Staff Report, page 13.*

#### *Utilities*

41. The proposed plat would be served by existing utility lines located within SE 48<sup>th</sup> Street. According to the City staff report, utility and stormwater drainage lines would connect through the proposed plat to other area subdivisions Sammamish Plateau Water and Sewer District would provide water and sewer service to the proposed plat. The Applicant submitted a King County Certificate of Water Availability and Sewer Availability, with attached Sammamish Plateau Water and Sewer District certificates, both of which state the Certificates would expire one year from date of signature, or May 10, 2007. Mr. Pywell testified that he received verbal affirmation that the Certificates issued to the Applicant are still valid, and no further updates are needed. *Exhibit 8; Exhibit 9; Exhibit 37, Staff Report, page 9; Testimony of Mr. Pywell.*

#### *Schools and Parks*

42. The proposed plat would be served by the Issaquah School District, including Grand Ridge Elementary, Pine Lake Middle School, and Issaquah High School. Subdivision residents would be bused to area schools. The nearest public transit stop is located approximately one mile from the proposed plat. Public parks are located approximately one mile southeast and one mile southwest of the proposed plat. City staff proposed a condition of plat approval that the Applicant be required to pay a park and school impact fees prior to building permit issuance. ; *Exhibit 10; Exhibit 37, Staff Report, page 14 and 19.*
43. With proposed conditions, City staff recommended approval of the preliminary plat application. *Exhibit 37, Staff Report, page 17.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner has jurisdiction to hold a hearing on a preliminary plat application and, after review of the preliminary plat, Planning Department recommendation, testimony, and exhibits submitted at the hearing, may approve, conditionally approve, or disapprove the preliminary plat. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.*

### Criteria for Review

According to IMC 18.04.480 and 18.04.490.C.1, preliminary plat proposals are reviewed through the Level 4 review process and shall comply with all the standards and criteria set forth in IMC Chapter 18.13. The standards and criteria regarding preliminary plats set forth in IMC Chapter 18.13 are established to promote the orderly and efficient division and redivision of land within the City; avoid placing undue and unnecessary burdens on both the applicant and the City; and to promote the public health and general welfare, complying with the provisions of RCW Chapter 58.17. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2) as follows:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) The public use and interest will be served by the platting of such subdivision and dedication.

*RCW 58.17.110(2).*

Prior to any approval of the preliminary plat, all minimum street and utility improvements or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code shall be specified by the Hearing Examiner and the applicant shall be advised of such. *IMC 18.13.140.B.*

### Conclusions Based on Findings

1. **With conditions, appropriate provisions would be made for the public health, safety, and general welfare, and appropriate provisions would be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds and all other relevant facts. The City provided adequate notice of the preliminary plat application and adequate opportunity for**

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public comment. The City reviewed the environmental impacts of the proposed subdivision as required by SEPA and determined that with conditions, the proposal would not have a probable significant adverse impact on the environment. Development of the proposed subdivision would provide single-family housing, consistent with the purpose and intent of the property's Comprehensive Plan land use designation.

Water and sewer service is available to the proposed subdivision. Parks are available to subdivision residents in the vicinity of the proposed subdivision. The Issaquah School District would serve the proposed subdivision. District students would be bused to District schools.

Street improvements would be constructed along SE 48<sup>th</sup> Street and along the proposed internal subdivision street that comply with City of Sammamish and City of Issaquah standards, respectively. Street improvements would include sidewalks, ensuring safe walking conditions to and from schools and the transit stop in the vicinity of the proposed subdivision. All lots within the proposed subdivision would have access to the proposed internal subdivision road.

Proposed lots and development density would be consistent with City critical area density transfer regulations designed to protect critical areas such as wetlands and wetland buffers. The subject property is physically suitable for development. The on-site wetland and proposed wetland buffer would provide open space within the proposed subdivision. The Applicant proposed a reduction in the 50-foot wide buffer required for Class 2 wetlands. City wetland review determined that if the Applicant intends to construct the proposed on-site stormwater wet/detention vault, the Applicant will need to revise the plat to meet City Code criteria for wetland buffer averaging.

However, the potential exists for stormwater runoff from the subject property and surrounding properties to be managed by a new, regional stormwater collection system. The existing, aged pipe on the subject property that has historically drained stormwater from surrounding properties no longer functions adequately, as the pipe has been plugged and is collapsing. The public comment letter submitted by the Bakers contains a conceptual drainage plan of proposed SE 48<sup>th</sup> Street drainage basin features, developed by the City. The plan depicts an 18-inch diameter HDPE tightline sewer pipe extending from the west edge of the proposed High Grove plat, located southeast of the subject property, extending east and north through the proposed High Grove, Issaquah 22, and Hawk Estates plats, terminating at the edge of the proposed Jazz Run and McBride plats. The July 2, 2008 conceptual utility plan submitted by the Applicant depicts an "outlet to future City diversion pipe" connected to plat storm drains at the south boundary of the proposed plat. According to the City staff report submitted for this preliminary plat application, the City is developing a regional stormwater system for the area under a separate permit that would protect wetland hydrology and prevent erosion. The regional stormwater system under development would include a tightlined system to carry excess



water flows downhill to where flows can be safely released into the natural drainage system.

Conditions of preliminary plat approval are necessary to ensure that the Applicant makes adequate provision for managing stormwater runoff generated by development of the proposed plat, taking into account stormwater runoff generated by neighboring developments, and to ensure there shall be no further increase in wetland area in the vicinity of the proposed plat as a result of plat development beyond the wetland area delineated within the Raedeke Associates, Inc. Wetland Assessment, dated June 26, 2007. Any stormwater runoff increase generated by proposed plat development that would otherwise flow to wetland areas shall be channeled into the new, regional stormwater management system currently under development by the City. The regional stormwater management system shall be designed to protect existing wetland hydrology and prevent erosion. The existing drainage pipe on the subject property and associated drainage swale to the west of the pipe outlet shall not be used to manage stormwater runoff. Any further work on the drainage system of the subject property, including the existing pipe, would require a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW). If the Applicant elects to construct an on-site stormwater wet/detention facility for additional stormwater runoff control, thereby reducing on-site wetland buffer area, the Applicant shall revise the plat to meet City code criteria for wetland buffer averaging. The proposed plat shall otherwise comply with City critical area regulations for Class 2 wetlands in effect at the time of the preliminary plat application.

Conditions of preliminary plat approval are also necessary to ensure that the Applicant implements MDNS conditions to mitigate environmental impacts of the proposed subdivision, including wetland, stormwater drainage, tree, and public services impacts; that a fee is paid to the City of Sammamish at building permit issuance for the traffic impact of proposed plat development; that the Applicant provides a half-width road dedication to the City along the south boundary of the proposed plat; that outdoor lighting is shielded from adjacent developments and natural areas; that fencing is constructed along the north, west, and east property line; that the Applicant obtain a non-expired Certificate of Transportation Concurrence; and that wetland mitigation is implemented, monitored and maintained as approved by the City. Conditions of approval are also necessary to ensure that City tree planting and landscape requirements are met; and park, road, fire protection, general government, and school impact fees are paid by the Applicant. *Findings 1 – 15, 17 – 31, 38 – 43.*

2. **The public use and interest would be served by the platting of such subdivision and dedication.** The City provided adequate notice of the preliminary plat application and adequate opportunity for public comment. The City and Applicant addressed public comments received on the application. The proposed subdivision would provide single-family residential housing opportunities for City residents, consistent with other area subdivisions. Development of single-family residential housing is a permitted use within

the City's Single Family – Small Lot (SF-SL) zoning district, which is compatible with the subject property's Low Density Residential land use designation under the City Comprehensive Plan. Conditions of preliminary plat approval are necessary to ensure that a note is placed on the face of the final plat stating that development shall honor well use rights of Robert and Ann Stephens upheld by King County Superior Court decisions in Case No. 05-2-13746-1SEA and Case No. 06-2-09836-6SEA. The face of the final plat shall also show the location of the existing well, pump-house, storage tank, and water line leading to the Stephens property as well as existing easements associated with use of these structures, and shall reference the covenants affecting use of these structures.  
*Findings 1 – 3, 10, 15 -17, 28, 32 – 37.*

### DECISION

Based upon the preceding Findings of Fact and Conclusions, the preliminary plat to subdivide 4.77 acres of land into 20 single-family residential lots is **APPROVED**, subject to the following conditions:<sup>12</sup>

1. The applicant shall provide the City with a Mylar copy of the approved subdivision. Upon City signature of the Mylar, the applicant shall record the approved subdivision with the King County Department of Records and Elections. The plat shall not be deemed formally approved until so filed.
2. Three paper copies and one electronic copy of the recorded subdivision package shall be provided to the Planning Department within ten (10) days of recording with the King County Department of Records. The electronic copy needs to be in a format acceptable to the City's Cartographer located in the Public Works Department.
3. The applicant shall comply with the environmental mitigation measures established in the MDNS issued by the City of Issaquah on April 9, 2008. The mitigation measures include:
  - a. The wetland buffer encroachment includes a 15-foot wide sewer easement at the north end of Tract 'C'. If there are reasonable alternative locations for the sewer easement outside the wetland buffer, this area shall be included in the wetland buffer and shall not be impacted. If the easement is the only reasonable alternative for utility provision, the 15-foot wide easement shall be planted with wetland buffer native shrub species after installation of utilities. This shall be approved by the City on a final wetland mitigation plan prior to issuance of construction permits.
  - b. The applicant proposes to enhance approximately 3,900 SF of the wetland buffer, to plant native tree and shrub species where existing dirt and gravel roads within the buffer area would be removed. Additional enhancement within Tract 'C' of Wetland A and parts of the associated buffer area would improve buffer functions (i.e. water quality, wildlife habitat) and mitigate for the indirect impacts of the development. A final mitigation plan shall show existing vegetation and additional plantings to further enhance the on-site wetland and

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<sup>12</sup> Conditions include both legal requirements applicable to all developments and conditions to mitigate the specific impacts of this development.

- wetland buffer area. This shall be approved by the City on a final wetland mitigation plan prior to issuance of construction permits.
- c. The final wetland mitigation plan shall include a planting plan and a 5-year monitoring/maintenance plan. The Planning Department shall approve the final wetland mitigation plan prior to issuance of construction permits.
  - d. To protect the wetland and wetland buffer areas from human intrusion, the outer limits of the wetland buffer shall be fenced and marked with critical area signs. The fencing and signage shall be approved by the Planning Department and installed prior to final plat approval.
  - e. The applicant shall prepare a wetland hydrology analysis to determine pre-development hydrology and shall design the stormwater detention facility and/or routing of roof and footing drains to maintain this hydrology post-development. This shall be approved by the City prior to issuance of construction permits.
  - f. The drainage channel on the south part of the site may meet standards or criteria for a stream under the jurisdiction of the Washington State Department of Fish & Wildlife (WDFW). The applicant shall apply for a Hydraulic Project Approval (HPA) from WDFW and WDFW's determination and/or HPA shall be submitted to the City prior to issuance of construction permits.
  - g. The applicant shall demonstrate the stormwater facility on the "Issaquah 22" site is adequately sized to accommodate the additional stormwater from Hawk Estates. If Hawk Estates is unable to utilize the stormwater facility on the "Issaquah 22" site, the plat may be revised to provide the stormwater facilities on-site, consistent with stormwater code requirements. This shall be determined prior to issuance of construction permits.
  - h. In order to avoid the potential downstream erosion impacts of stormwater discharge, the City shall review details of the design criteria/assumptions, location, method and route of the project's stormwater conveyance and detention facilities prior to issuing construction permits.
  - i. In order to preserve existing, significant trees on the subject site for wildlife habitat and also to retain trees to implement the Comprehensive Plan policy to protect forested hillsides, the applicant shall indicate existing trees which could be reasonably retained within the building setbacks on the proposed lots. The City will then approve clearing limits and tree protection measures to protect existing significant trees. The tree retention plan shall be approved by the City prior to issuance of construction permits.
  - j. The applicant should mitigate for potential impacts on public services with a voluntary contribution in the amounts of \$86.30 per new single family dwelling unit for General Government Buildings and \$61.83 per new single family dwelling unit for Police Services. The applicant should pay the voluntary contribution prior to issuance of building permits.
4. Prior to issuance of a building permit the applicant shall submit a foundation soils report by a licensed Washington State geotechnical engineer.
  5. The applicant shall ensure that there shall be no further increase in wetland area in the vicinity of the proposed plat as a result of plat development beyond the wetland area delineated within the Raedeke Associates, Inc. Wetland Assessment, dated June 26, 2007.
  6. Prior to final plat approval, the applicant shall ensure that any stormwater runoff increase generated by proposed plat development that would otherwise flow to wetland areas shall be channeled into the

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new, regional stormwater management system currently under development by the City. The regional stormwater management system shall be designed to protect existing wetland hydrology and prevent erosion. The existing drainage pipe on the subject property and associated drainage swale to the west of the pipe outlet shall not be used to manage stormwater runoff. If the Applicant elects to construct an on-site stormwater wet/detention facility for additional stormwater runoff control, thereby reducing on-site wetland buffer area, the Applicant shall revise the plat to meet City code criteria for wetland buffer averaging. The proposed plat shall otherwise comply with City critical area regulations for Class 2 wetlands in effect at the time of the preliminary plat application.

7. Prior to the issuance of building permits the impact fees for the items listed will be determined and due for each lot when building permits are issued. The residential development associated with these subdivisions will have an impact on the parks, City and County roads, fire protection, general government and schools servicing this area.
8. Prior to the issuance of a building permit the traffic impact fee will be calculated and submitted to the City. Traffic generated by the residential development associated with this plat will also impact roads in King County. The City has adopted an Interlocal agreement with King County that establishes the impact fee for this area.
9. Prior to final plat approval, the Applicant shall obtain a valid Certificate of Transportation Concurrence from the City.
10. Prior to recording of the final plat the applicant will need to provide a 6-foot tall, solid cedar fence along the north, west, and east property line of the subdivision. The solid cedar fence does not have to be provided in the portion of the project site where a wetland is located. A split rail fence and signage for the wetland area will be provided along the wetland boundary within the Hawk Estates Preliminary Plat.
11. Prior to recording of the final plat, if the existing trees along the SE 48<sup>th</sup> Street cannot be retained, a minimum of a single row of native trees shall be provided on the subject property along the northern boundary of the subdivision. The trees shall be located within the boundary of the project.
12. Prior to recording of the final plat the applicant shall have a note recorded on the face of the plat that the City of Issaquah is recognized as a Tree City. Due to the grading that was required on this site the applicant needed to remove most of the trees that were growing on this site. In order to replace the trees that were removed two native species trees shall be planted on each housing lot prior to final building inspection of the single family homes.
13. Prior to the recording of the final plat outdoor lighting will need to comply with IMC Section 18.07.107 which shall include the requirement of shielding of lights to ensure that the light does not spill over onto adjacent undeveloped and natural areas.
14. Prior to recording of the final plat the applicant will need to provide a fire hydrant in the area of Lot-7 or Lot-14 in accordance with the Eastside Fire and Rescue requirements.
15. Prior to recording of the final plat the applicant shall install 5" Stortz Fittings for all new and existing fire hydrants within 300' of any proposed structure location.

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16. Prior to recording of the final plat the plat will be required to connect with the proposed City of Issaquah regional stormline that will be constructed to the south of the project site.
17. Prior to the recording of the final plat the applicant shall dedicate a half-width right-of-way with installed Code required improvements along the southern boundary of Lot 11.
18. In accordance with the agreement reached between the applicant for Hawk Estates subdivision and the City of Sammamish the applicant shall place a note on the face of the final plat stating that a recorded agreement was reached between the City of Sammamish and the property owner requiring the payment of a City of Sammamish transportation impact fee of \$1,370 per residential lot at the time of the issuance of a building permit for each lot.
19. The proposed street shall line up on the southern end with the Issaquah 22 development's road extension and line up on the north with 229<sup>th</sup> Place at SE 48<sup>th</sup> Street. Curb, gutter, and sidewalk required along all new streets and along SE 48<sup>th</sup> Street. Design of all street improvements along SE 48<sup>th</sup> Street shall be to City of Sammamish standards.
20. Structures over 5,000 square feet shall have fire sprinkler systems installed per NFPA 13-D and Eastside Fire and Rescue requirements.
21. Prior to the recording of the final plat an approved fire apparatus access roads shall be provided. Dead end roads over 150-feet in length shall be provided approved fire apparatus turn around.
22. Prior to recording of the final plat, the applicant shall provide to the City a letter from the Sammamish Plateau Water and Sewer District that confirms acceptable installation of sewer and water lines and/or appropriate bonds guaranteeing final installation.
23. Prior to recording of the final plat, a note shall be placed on the face of the plat stating, "Development shall honor well use rights of Robert and Ann Stephens upheld by King County Superior Court decisions in Case No. 05-2-13746-1SEA and Case No. 06-2-09836-6SEA." The face of the final plat shall also show the location of the existing well, pump-house, storage tank, and water line leading to the Stephens property as well as existing easements associated with use of these structures, and shall reference the covenants affecting use of these structures.
24. Prior to issuance of the Clearing and Grading permit for the final layout of the lots the applicant shall work with the City staff arborist to preserve as many of the existing trees as is possible.
25. Prior to recording the final plat the applicant shall dedicate the appropriate right-of-way along the south boundary of the subdivision.
26. The environmentally critical areas of wetlands and buffers shall be protected as required by the Critical Areas Ordinance, including IMC 18.10.460, 480, 515, as follows:
  - a. Establish and record Critical Area Tracts to protect all critical areas by showing the following language on the face of the final plat as follows:

Restrictions for Native Growth Protection Easements/Critical Area Tracts and Buffers:

*The Critical Area Tract conveys to the public a beneficial interest in the land within the sensitive area tract. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract imposes upon all present and future owners and occupiers of the land subject to the tract the obligation, enforceable on behalf of the public by the City of Issaquah, to leave undisturbed all trees and other vegetation within the tract. The vegetation within the tract may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the City of Issaquah or its successor agency, unless otherwise provided by law. Demonstrated health and safety concerns shall be considered by the City when permitting the cutting, pruning or removal of living or dead vegetation.*

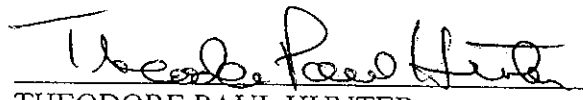
*The common area between the tract and the area of development activity shall be marked or otherwise flagged to the satisfaction of the City of Issaquah prior to any clearing, grading, building construction or other development activity on a lot subject to the tract. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed. No building foundations are allowed beyond the required 15 foot building setback line, unless otherwise provided by law. Permanent survey stakes shall be placed delineating the boundary of the critical area.*

- b. Temporary Fencing: Prior to any site disturbance or construction activity, the location of the outer extent of the critical area buffer and building setback line as established by an approved Development or Land Use Permit, shall be marked in the field with orange construction fencing or other City approved material. The location of the markings shall be approved by the Planning Dept. and may require a professional survey. Markings shall be maintained for the duration of construction activities.
- c. Temporary Signs: Prior to any site disturbance or construction activity, signs shall be placed at regular intervals along the construction fencing as approved by the Planning Department with notice of the critical area location and disturbance restrictions. The signs shall contain language similar to: "Wetland Protection Area DO NOT DISTURB Questions? Call: Issaquah Public Works 425-837-3400". See the Planning Department for samples.
- d. Prior to submittal of the final plat, place permanent survey stakes using iron or cement markers delineating the critical area buffer boundaries.
- e. Prior to recording of the final plat, place permanent signs at the critical area buffer boundary at regular intervals in accordance with IMC 18.10.515 as approved by the Planning Department explaining the critical area location, disturbance restrictions, and type and value of the critical area. See the Planning Department for samples.
- f. Prior to recording of the final plat, the applicant shall post a maintenance/monitoring cash deposit for all critical area mitigation installations in the amount of 50% of the value of

the estimated maintenance and monitoring cost. The cash deposit shall include the cost of the plants, installation labor, monitoring, and maintenance and shall be held for a period of 5 years.

- i. Following installation and City acceptance of the mitigation plan, a monitoring report of the mitigation project shall be completed annually for a period of 5 years. The monitoring shall be completed by a private critical area professional. Reports shall be submitted with the professional's signature and/or professional license stamp to the Planning Department on or before November 1<sup>st</sup> of each year. The contents of the report shall be as outlined in the approved Critical Area Study, but at a minimum shall meet the King County Mitigation Guidelines for monitoring reports to include: percent of survival, percent of invasive species, comparison with performance objectives, corrective measures and timetable.
27. All overhead utilities (power, telephone, CATV, etc.) shall be constructed underground along the project.
  28. Per IMC Chapter 12.32, the contractor shall provide and install conduit for cable television. A note shall be provided on the construction drawings indicating the required work.
  29. Final plat approval shall require full compliance with the drainage provisions set forth in the City's storm drainage requirements, the 1998 King County Surface Water Design Manual. Compliance is dependent upon addressing SEPA mitigation #3 that shall include connection to the regional stormwater system proposed and currently under review in File No. PLN06-00080 or an alternative design to be approved by the City.
  30. Prior to grading permit approval the Sammamish Plateau Sewer and Water District shall approve the sanitary sewer and water line construction plans for the plat. Prior to final plat approval the Sammamish Plateau Sewer and Water District shall provide written approval acceptance of the installation of sewer and water utilities.

Decided this 23<sup>rd</sup> day of July 2008.

  
THEODORE PAUL HUNTER  
City of Issaquah Hearing Examiner